

## **Industry position on feasibility study on a possible legal instrument on the integrity of sport against the manipulation of results**

### **Introduction**

The European Gaming and Betting Association (EGBA)<sup>1</sup>, the Remote Gambling Association (RGA)<sup>2</sup> and the European Sports Security Association (ESSA)<sup>3</sup> are pleased to provide their position to the Council of Europe Ministers for Sport on the possible creation of an international convention against match-fixing. All three associations have been active participants in the hearings leading up to the adoption of the Council of Europe recommendation on match-fixing last year.

The prevention of match-fixing is of the utmost priority for all our member companies. We have a vested interest in protecting sports competitions from match-fixing. If a sports bettor already knows the outcome of a competition in advance due to manipulation and is able to bet on it, he is not only cheating other sport fans but also the betting operators who will inevitably lose money because contrary to the fraudsters, they do not know the outcome of the sport event in advance.

### **Executive summary**

Our associations share the view that match-fixing has become a global phenomenon that requires international action. The priority is therefore to find concrete solutions in the short term that can be achieved in the most practical and effective way possible. In that context, we believe that the focus should be on strengthening existing co-operation (such as the one developed by ESSA) and developing ties with sports regulators, federations and law enforcement authorities outside of Europe, in particular Asia. We support in this respect the proposal in the feasibility study to set up an international network of betting market regulators in which the betting industry would be involved.

We, however, have doubts that the proposal to create an international convention against match-fixing will achieve the desired result. This is fundamentally due to the role such network would play under a legally binding convention and the functions it would be required to fulfill.

- First, the focus of this network is heavily leaned towards betting-related match-fixing when the scope of the convention is supposed to cover all types of manipulation of sports results.
- Second, this network would undertake actions and measures (such as ISP and financial blockings) against so-called illegal operators. This would be problematic for two reasons:

---

<sup>1</sup> <http://www.egba.eu/en/>

<sup>2</sup> <http://www.rga.eu.com/>

<sup>3</sup> <http://www.eu-ssa.org/>

- Firstly, blocking mechanisms have a poor history of success and there is no internationally agreed or legally sound way of defining what constitutes an 'illegal' operator.
- In addition, signatories to the convention would seek to define the types of bets viewed as more risky and only authorize those bets which have received prior consent of sports regulators or organizers.

We believe that this overly restrictive approach to the organization of betting markets would be counterproductive, time consuming, overly bureaucratic and ultimately fail to minimize the risks of corruption and match-fixing that would simply be driven underground. It seems therefore premature to suggest a legal instrument at international level as a solution, given that there is a lack of harmonization in the gambling sector at a European level.

The remainder of our response will concentrate on the four integrity issues Ministers will be invited to discuss at the Conference of Ministers responsible for sport on 15 March:

## **1. In which areas of the fight against manipulations of sports results is there a need for further harmonization or co-operation?**

### **Harmonization**

Some areas in the fight against corruption in sport deserve a harmonized approach:

- Definition of what constitutes sporting fraud and applicable sanctions: The Council of Europe feasibility study notes that many member states don't see a need to change their criminal legislation in relation to match-fixing as they can be addressed under existing criminal law provisions despite the fact that many of them *"have not introduced any such specific criminal law provisions"*. We would argue that the existing discrepancies or absence in terms of how sporting fraud is defined across Europe is detrimental to the fight against corruption. Such discrepancy means that there is uncertainty for sports professionals about the rules that apply and any associated sanctions. As a result this makes cross-border investigations of suspicious activities even more difficult. That's why we support the recent report by the European Parliament on online gambling which states that *"a common definition of sport fraud and cheating should be developed and that betting fraud should be penalised as a criminal offence throughout Europe"*.<sup>4</sup>
- There is also a need for more harmonized rules at the level of sports federations. A Gambling Compliance article reported in May 2011 that *"Only 13 of the 105 members of Sport Accord, the umbrella organization of international sports federations currently have such rules (in relation to match-fixing) in place"*.<sup>5</sup> This alarming statistic prompted EU Athletes, the leading association in Europe representing over 25,000 athletes, to approach EGBA, RGA and ESSA in 2010 to launch a Europe-wide

<sup>4</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0492+0+DOC+XML+V0//EN>

<sup>5</sup> <http://www.gamblingcompliance.com/node/46659>

campaign (which uses as a basis a code of conduct)<sup>6</sup> to educate athletes about sports betting. This initiative has confirmed that many sports indeed had no rules on match-fixing prevention or failed to communicate them effectively to players.

- We therefore encourage the adoption and harmonization of preventive measures by sports organisations that would ensure that these measures are legally binding in order to protect corruption. Players need to know the rules, how to deal with them and the consequences of failing to do so as they are closest to the sporting events and therefore best equipped to protect the integrity of sports.

## Cooperation

- While the areas listed above merit further harmonisation, we believe at the same time that some areas in the fight against corruption can only be tackled effectively via existing tools such as cooperation. This is due principally to the fact that online gambling regulation is not harmonised across the EU. In this context, we welcome the proposal to establish a network of betting regulators that would *“play a key role in ensuring information exchange between the sports movement and betting operators, as part of the various betting monitoring systems.”* We support as well that this network *“meets regularly in an enlarged forum, in order to maintain this dialogue and consult the operators’ representatives on measures which could be harmonised at international level”*.

In this respect, leading members of the EGBA and RGA have been working since 2005 with ESSA to alert sports federations and regulators of any suspicious betting patterns. This system of alerts helps to prevent sports fraud, assisting in the investigation of past events which are still under review and also by acting as a deterrent against fraudsters or those seeking to corrupt sports that are aware of its existence and recognise the increased prospects of being caught.

## 2. Which functions should a strengthening of co-operation fulfill?

The strengthening of cooperation could discuss the following topics:

- Types of stakeholders participating in this initiative (the presence of EU Athletes representing over 25,000 professional athletes in Europe seems indispensable).
- Understanding the extent and size of match-fixing (see Coventry<sup>7</sup> and Oxford University<sup>8</sup> studies which highlight that doping remains the biggest threat to sports integrity while betting-related match fixing is only one of ten other threats to sports integrity).
  - As recently confirmed by expert workshops organised in May and July 2011 by the European Commission [in the context of the Green paper consultation on “online gambling in the Internal Market”], all existing evidence shows that: *Sport betting is not a threat to the integrity of sport competition in*

---

<sup>6</sup> <http://www.eusportsbettingcode.org/>

<sup>7</sup> <http://www.egba.eu/pdf/Report-FINAL.pdf>

<sup>8</sup> <http://www.eusportsplatform.eu/Files/Filer/examination%20of%20threats%20to%20sports%20integrity.pdf>

*principle....that the risks emanate from the use of enabling technologies - such as the Internet, from unregulated online gambling operators and organised crime structures, from non-European jurisdictions, particularly from Asia.*<sup>9</sup>

- In this context, we are concerned that the feasibility study appears focused largely on betting-related (chapter 6) match-fixing despite the evidence that this is a relatively small source of corruption in sport as well as the claims that the aim of the study is to focus on all types of manipulation of sports results.
- How existing cooperation could be better developed (i.e. ESSA) and partnerships broadened (i.e. education of athletes with European – World lotteries).
- The role of regulators, sports governing bodies versus operators: Why is it deemed appropriate for regulators/sports governing bodies to define the types of bets to be allowed or banned (e.g. live betting) when they have no experience of how such bets are managed or put together? In addition, by restricting the availability of bets within a regulated framework, consumers are automatically driven to the black-market, playing into the hands of the very fraudsters that we are seeking to address?
- The compliance of sports governing bodies with rules on match-fixing

Instead, EGBA, RGA and ESSA are concerned about some of the proposed functions listed in the feasibility study that this strengthened cooperation (in the context of the network of betting regulators) could and should fulfill. This applies to the following:

- Actions against illegal betting (chapter 14): The feasibility study refers to the need for the network of betting regulators to be involved in *“studying and coordinating measures to prohibit the unlawful offer of bets”*.
  - Firstly, the notion as to what constitutes illegal betting is confusing. The definition is a legal question that would ultimately be for the courts to determine. Online betting is cross-border by nature and what is legal in one country may be illegal in another country, or what is legal in the EU may be illegal outside of the EU. If a distinction has to be made, then it should be between European licensed on the one hand and operators that are completely unlicensed or whose licence is not deemed credible on the other. These tend to come from other parts of the world. In addition, given that the objective of the study is not to *“to discuss the controversial issue of opening up national markets”*, it is inappropriate for the study to pronounce itself on what constitutes illegal betting.
  - Secondly, measures listed (such as ISP and financial blockings) to prevent illegal betting are inefficient, easily circumventable and drive consumers away to the black market. Countries such as Norway<sup>10</sup>, France<sup>11</sup> and Italy<sup>12</sup> where such measures have been implemented have only had a limited success in

<sup>9</sup> [http://ec.europa.eu/internal\\_market/services/docs/gambling/workshops/workshop-i-conclusions\\_en.pdf](http://ec.europa.eu/internal_market/services/docs/gambling/workshops/workshop-i-conclusions_en.pdf)

<sup>10</sup> <https://lottstift.no/lotteritilsynet/files/2012/01/Rapport-betalingsformidlingsforbudet-jan-20121.pdf>

<sup>11</sup> [http://www.mag-ca.it/Download\\_k\\_files/%22Jeux%20en%20ligne%E2%80%9D%20in%20the%20French%20Market\\_2011.pdf](http://www.mag-ca.it/Download_k_files/%22Jeux%20en%20ligne%E2%80%9D%20in%20the%20French%20Market_2011.pdf),

page 21

<sup>12</sup> Idem, page 35

channelling consumers towards the licensed offer. Cloud computing creates additional complications from trying to apply such measures in practice.

- Thirdly, the introduction of *“a principle whereby a betting operator can operate in a state party (or apply for a licence to do so) only if the operator’s activities have not been the subject of any conviction in another state party”* is also a concern because some of the members of our associations are still subject to criminal proceedings (i.e. France) despite the fact that they are duly licensed in that country. We would again suggest that this is a matter for licensing authorities and the courts to consider on a case by case basis rather than through a mechanism like a convention.
- Risky bets and live bets: The study refers to having a *“more precise definition of what are viewed as more risky bets”*. As evidenced above, only regulation that meets customers’ expectations and accounts for market realities will help to control the black market in sports betting and thereby minimise the risk of corruption and match-fixing. We believe that overly-restrictive regulation (such as limiting the availability of certain types of bets including live bets) will be counterproductive as it will drive consumers to unregulated black-market operators. The fact these bets exist, is evidence of consumer demand for them. Of course, operators apply lower limits to such bets as they are invariably subject to far less liquidity.

### **3. What are the pros and cons of negotiating an international convention compared to continuing with co-operation based on existing conventions, complemented by decisions and non-binding legal instruments?**

Given the concerns listed above, EGBA, RGA and ESSA have doubts about a number of crucial points that sports betting operators would be subject to in the context of a legally binding convention. This applies, in particular, to the following:

- The implementation of a number of fraud prevention measures (such as ISP and financial blockings) as well the limitation of certain bets – see chapter 13 and 14
- The overall objective to strengthen the fight against illegal betting via a convention which would make it possible *“to overcome certain legal obstacles undermining the implementation of measures to combat the unlawful offer of bets and which could help strengthen the range of available measures by means of a principle of mutual recognition of operating bans on operators who have broken the integrity rules in other states parties to the convention.”* – see chapter 14
- The fact that betting operators under a convention would be subject to the obligation that *“no betting is allowed on a sports event unless the organiser of the event has been informed and has given prior approval”* – see chapter 21

The above reference makes an indirect reference to the so-called French sports betting right which obliges French-licensed operators to pay a fee via a contractual

relationship to sports organisers for the bets they offer on their events. The feasibility study does not state what the justification for this is, but if it is to fight corruption in sport, then it must be noted that this has failed spectacularly in France for the following reasons:

- It is favoring premium sports at the expense of secondary sports which are the most vulnerable to sports corruption. From June to December 2010<sup>13</sup>, event organisers in all sports generated an income of no more than €530,000 on the sports betting right, with around 60% going to the football and 20% to tennis. This is also due to the fact that many online gaming operators refrained from offering bets or reduced their offer on a number of sports focusing only on those sports events that generate most income (i.e. football and tennis). This in turn reduces the visibility and appeal of French events, in particular smaller events with less media coverage, and results in a limited choice for the customer. Consumers consequently turn to the black market to find the betting offer they are looking for.
- It has a negative impact on consumer value: It increases the price customers have to pay, as betting operators have to integrate the cost of the “betting right” in they manage their risk.
- It has a negative impact on the operators: They have reduced their marketing and sponsorship spending. Today no more than five League football teams have betting partners, compared with more than half of the entire Premier League and Serie A teams in the UK and Italy respectively. It has made the sports betting regulated offer in France unattractive for consumers, uncompetitive and unprofitable for operators – a broad concern that was acknowledged by the French regulator in January 2011.<sup>14</sup>
- There is no evidence at this stage that proves that such right has improved the fight against match fixing.
- Last but not least, it leads to a conflict of interests as sports event organisers has a de facto control of the betting product when it should clearly be the preserve of statutory regulatory authorities.
- We nevertheless welcome the recognition that support in particular from public authorities under a convention should dedicate “*financial grants*” to the fight against match-fixing. This would complement the work already undertaken by our members in educating and raising awareness with leading sports associations – see chapter 16

#### **4. How might a Pan-European initiative of co-operation and harmonisation give rise to an international movement?**

Co-operation and harmonisation are two very different concepts for which we have tried to highlight above some of the pros and cons. As mentioned earlier, given the global nature of

---

<sup>13</sup> <http://www.arjel.fr/IMG/pdf/20110121voeux.pdf>, page 6

<sup>14</sup> <http://www.arjel.fr/IMG/pdf/voeux2012.pdf>

match-fixing in sports, there is a clear need to have an effective international approach (whether bilateral or multilateral). The focus should be on strengthening the existing partnerships rather than creating new legal instruments (such as a convention). For instance, the current memoranda of understanding are mostly between the European betting industry and sports federations. This should be extended to regulators and other sports federations outside of Europe, in particular Asia.